

**REMARKS**

This Amendment is responsive to the Office Action dated August 10, 2006.

Claims 20-31 remain in this application. Claims 1-19 were previously canceled without prejudice. Of the claims remaining, Claims 20 and 28 are independent. Claims 20-27 have been amended herein.

**Rejection of claims citing Herz et al. USPN 5,758,257**

This rejection includes all of the claims remaining in the application, and specifically independent Claims 20 and 28.

In the present response, only Claims 20-27 have been amended. More specifically, independent Claim 20 has been changed to recite that the programs selected for presentation to the viewer are not only selected in accordance with the viewer characteristic information profile, but also arranged in accordance with the viewer characteristics information profile.

Support for this recitation in the claims can be found throughout these specifications, for example, in the last paragraph of page seven where it is suggested that a method for presenting available to the TV programs to a viewer might include the step of...

presenting the viewer with a list of the selected programs, the list arranged in accordance with the viewer profile.

This aspect of the invention, arranging the list of selected programs in accordance with the viewer characteristics information profile, is of particular interest to the present invention. By way of example, suppose that a viewer has several profiles designated for example sports, game shows, news, etc. Depending on the interest of the viewer at that particular moment, he may choose to watch a live football game. Under these circumstances he would typically choose the sports profile to be used in selecting the list of TV programs presented. But the presented list would very likely include programs relating to baseball, basketball, hockey and lacrosse. Furthermore, the programs might include live games, re-runs of previous games, as well as talk shows focusing on sports in general. The viewer would be left with a vast selection of sports programs presented to him for viewing. In accordance with the prior art, these would all be scrambled in the presented list. For example, the first item on the list might be a re-run of a hockey game; the second item a talk show relating to lacrosse, and the third item a live basketball program.

In accordance with the present invention, the list of TV programs selected for presentation to the viewer would be further arranged in accordance with the viewer characteristics information profile. For example, the profile may show a predominate interest in football followed by secondary interest in basketball and baseball in that order. In accordance with one aspect of the present invention, the list of TV programs presented to the viewer would then be arranged with all football programs at the top of the listing followed by all basketball programs and then all baseball programs. The list might be further arranged to favor live broadcasts over replays and talk shows. With this arrangement of the programs in the list, the viewer can rapidly find the particular program and type of program that is of greatest momentary

interest. This aspect of the present invention is clearly recited in Claim 20 where the programs listed for the viewer are further recited to be “selected and arranged” in accordance with the viewer characteristics information profile. “(Emphasis added.)” This aspect of the present invention is also recited in Claims 28-31 wherein the recited method includes the step of, “...presenting the viewer with a list of the selected programs, the list arranged in accordance with the viewer characteristics information profile.”

In the Final Office Action, the Examiner rejected all pending claims citing Herz et al, USPN 5,758,257. Although this reference contemplates the presentation of TV programs based on user profiles, there is no contemplation that a single one of the list might be further arranged in accordance with a viewer profile. This is not the case of creating a separate list for each specific interest of a viewer. Rather, applicants contemplate that a single list might include programs having some commonality (which would define a list) but programs also having considerable differences in presentation (which might define an arrangement of the list).

In rejecting Claim 20, the Examiner refers to Herz et al, column 10 lines 6-55; column 11, lines 15-65 through column 12 lines 1-55; column 14, lines 10-65, column 15, lines 10-60. The passages referred to in column 10 relate to the generation of an agreement matrix. There is no mention of any arrangement of a presentation list having an arrangement of programs based on a user profile.

The passages referred to in column 11 discuss the process for selecting programs to be included in the single listing. There is no contemplation of arranging those programs within the listing in accordance with a user profile.

The passages referred to in column 12 relate to the mathematical derivation of a customer's profile, and the selection of programs in accordance with that profile for presentation to the viewer. There is no mention or contemplation of any arrangement of programs within the presented list based on the customer profile.

The passages referred to by the Examiner in column 14 relate to changes in a customer profile. There is no mention or contemplation of an arrangement of programs in the presented list which is based on either a customer profile or a changed customer profile.

The passages referred to in column 15 relate to further aspects in the derivation of the customer profile. Again, there is no mention or contemplation of the arrangement of a presentation list in accordance with a customer profile.

With respect to the storage of a viewer profile, the Examiner refers to column 40, lines 21-65; column 41, lines 1-15; column 45, lines 9-30. The passages referred to in column 40 relate to a one-way data transmission system that does not have passage feedback. There is no mention of a presentation list wherein the included programs are arranged in accordance with a user profile.

The passages referred to by the Examiner in column 41 of Herz et al teach a means for updating the customer profiles based on programs actually watched by the customer. There is no mention or contemplation of the presentation of either selected or arranged in accordance with a customer profile.

In column 45 referred to by the Examiner, the derivation of numerous customer profiles is contemplated along with the preparation of a presentation list for each profile. In no case is there any mention or contemplation of the further arrangement of a presentation list based on a customer profile.

(The passages in column 15 relate to the storage of a customer profile).

With the respect to the presentation of the viewer list, the Examiner refers to column 45, lines 34-50 of Herz et al. In these passages, Herz et al referred to a listing of programs available on virtual channels. However, there is no mention or contemplation of any arrangement of programs on that listing, let alone an arrangement that is based on the customer profile.

With respect to a viewer requesting different selections, the Examiner refers to column 45, lines 34-60 of Herz et al. In the passage cited by the Examiner, numerous customer profiles are contemplated but in no case is there any mention of the arrangement of presented programs in accordance with a customer profile.

With respect to the customer's request of a different list of suggested programming, the Examiner cites column 45, lines 55-67 of Herz et al. In this passage, a customer identifier interface is contemplated. However there is no mention of an arrangement of programs in a presented list that is based on customer profiles.

(The Examiner refers to column 45, lines 55 through column 46, line 20).

The passages referred to in column 46 relate to a "lock out" function associated with a customer identifier functional block. Herz et al neither disclosed nor contemplate any arrangement of programs in a list presented for viewing.

In the rejection of dependent Claims 21-27, the Examiner cites Herz et al, at column 17, lines 35-65, column 26, lines 5-65, and column 46, lines 1-20. Initially it would be noted that each of these dependent claims also recites the patentable limitations previously referred to in independent Claim 20. The additional passage referred to by the Examiner in column 17 contemplate the derivation of a customer profile taking into account moods and time of day. However, there is no contemplation of a list based on user profile which is further arranged in accordance with the user profile. In the referenced passage, Herz et al referred to virtual channels, preparation of agreement matrix, and passing monitoring. However there is no disclosure or contemplation of a presentation list that is arranged in accordance with a customer profile.

A customer identifier functional block is referred to by the Examiner in column 46 of Herz et al. However, there is no mention in this passage of any list of TV programs that is arranged in accordance with a user profile.

In rejecting dependent Claims 29-31, the Examiner cites Herz et al, at column 26 lines 1-21; column 29, lines 30-65 and column 45, lines 20-65. The passages in column 26 of Herz et al refer to virtual channels and the satisfaction of customer appetites. There is no contemplation of an arrangement of programs in a list presented for customer viewing.

The passages referred to in column 29 relate to passage feedback as a basis for changing customer profile. However there is no contemplation of any list of programs that is arranged in accordance with a customer profile.

The passages referred to in column 45 of Herz et al refer to an agreement matrix and a list of "preferred channels selections" or "virtual channels". However there is no contemplation that the list of preferred channel selections or virtual channels might be arranged in accordance with a user profile.

### **CONCLUSION**

The foregoing remarks are made with specific reference to the Examiner's citations and concerns, but are also made in full view of Bedard and the other art cited in this prosecution. Whether this art is considered individually or in combination, it appears clear that Applicant is the first to contemplate, to let alone disclose, the arrangement of programs in a list presented to a

customer for viewing. Since this arrangement is clearly recited in each of the pending claims,

the Examiner's reconsideration and allowance of this application is respectfully requested.

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